Regional Haze Best Available Retrofit Technology and Reasonable Progress
Key Points on the TCEQ's Proposed Approach

The following are key points of consideration regarding the TCEQ's proposed alternate plan for Best Available Retrofit Technology (BART) and reasonable progress purposes based on an approach similar to the Cross State Air Pollution Rule (CSAPR). Subject coal-fired electric generating units (EGUs) would comply with mass-based source or system caps that would be equivalent to the SO_2 allocations the units received under the CSAPR and would be allowed to trade via an intrastate trading program.

Why Texas' Preferred Option for a SO_2 BART Alternative is Supportable and Approvable

- Meets the requirements for a BART alternative emissions trading program in 40 Code of Federal Regulations §51.308(e)(2).
    - The trading program covers sources subject to BART and reasonable progress, therefore under §51.308(e)(2)(i)(C), the EPA can use a presumptive SO_2 BART limit for the EGU source category rather than source-specific BART to determine greater reasonable progress of the alternative program. In this case, the presumptive SO_2 BART limit is the CSAPR SO_2 program for Texas.
    - Under §51.308(e)(2)(i)(E), the demonstration of greater reasonable progress is satisfied because the clear weight of evidence shows the trading program achieves greater progress than presumptive BART for Texas EGUs as a source category because it is more stringent than CSAPR for the reasons outlined below.
- At least one federal circuit court has ruled the requirement that reductions from a BART alternative trading program must occur during the first planning period (by 2018), does not apply to FIP alternative programs.
- The EPA has already determined that CSAPR (both with Texas sources and without Texas sources) is better than BART, which means that any trading program with a similar budget should therefore also be approvable.
- The Texas SO_2 alternative approach includes 82% of coal-fired EGU SO_2 emissions in Texas.
- Although Texas SO_2 BART alternative does not cover all CSAPR Texas units, it is more restrictive than CSAPR in the following ways:
    - Texas' SO_2 BART alternative is an intrastate trading program, which will not allow for interstate trading (more restrictive than CSAPR).
    - Texas' SO_2 BART alternative is more likely to positively affect Class I areas affected by Texas emissions than CSAPR, which provided no backstop for trading that could have negatively impacted Class I areas affected by Texas emissions.
    - Texas' SO_2 BART alternative budget does not include emissions from the CSAPR variability limit or the new unit set-aside. While the TCEQ is considering using the new unit set-aside as a type of emergency pool of allowances for grid reliability purposes, this is still more restrictive than CSAPR because the allowances would only be issued in emergencies.
- Texas' SO_2 BART alternative covers sources that are most likely to have a visibility impact on Class I areas impacted by Texas SO_2 emissions. The coal-fired EGUs outside the intrastate trading program were already determined by the EPA have insignificant or no visibility impact with regard to reasonable progress under the EPA's Regional Haze Reasonable Progress FIP for Texas.
- Having an intrastate trading program in Texas continues to support the EPA's CSAPR better than BART determination, particularly since Texas EGUs won't be able to trade with other CSAPR Group 2 EGUs.

Load-shifting to Coal-fired EGUs Outside the Program is Not a Concern

- While some site-specific load-shifting is possible at a few sites (i.e., Welsh and WA Parish), such load-shifting is also possible and actually more likely to occur under the EPA's proposed BART FIP. Additionally, these facilities that might increase generation as a result of load-shifting were already determined by the EPA to not have a significant visibility impact for reasonable progress purposes.
- For ERCOT, there is very limited capacity for load-shifting to the other coal-fired EGUs. The estimated residual generation capacity of the coal-fired EGUs outside the intrastate trading program could only absorb approximately 34% of the 2016 generation from the EGUs inside the program.
- The EGUs in ERCOT that are outside the program are very well controlled for SO_2; all but one of the units are equipped with flue gas desulfurization and/or fluidized bed limestone injection. The overall SO_2 emission rate for the EGUs in the program is 5.8 lb/MWh net, but the overall SO_2 emission rate for the EGUs outside the program is 1.4 lb/MWh net.
- For SPP East, while Welsh Unit 3 could absorb the generation from Welsh Unit 1, Welsh Unit 2 permanently retired in 2016 and the facility is expected to have sufficient allowances under the program. Therefore, there is no reason to expect load-shifting to occur. However, as noted above, even if some shifting occurs, the EPA has already determined that Welsh does not have significant visibility impact for reasonable progress purposes.
- For SPP West, only one coal-fired EGU would exist outside the program, Harrington Unit 063B, which at most could only absorb 36% of the generation from the two Harrington units inside the program and only 13% of the total generation of the Harrington and Tolk units in the program.
- In the EPA's proposed action to remove Texas from CSAPR in which the EPA maintained that CSAPR was still better than BART, the EPA did not assume any load-shifting to the other coal-fired EGUs in Texas would occur or take into consideration enforceable restrictions on these other units. For the EPA to require such considerations for the TCEQ's proposed approach is inconsistent, unjustified, and would undermine the EPA's own determination that CSAPR is better than BART.
- EGUs within ERCOT (which includes the overwhelming majority of the coal units in question) are dispatched based on bid price, resulting in lowest cost generation (wind, solar and gas) absorbing excess generation before coal-fired units.

Why EPA Should Not Finalize the Proposed BART FIP and Consent Decree Deadline Extension Support

- Significant comments received on the proposal indicate that the proposal is flawed and should not be finalized and that the EPA needs additional time to address these comments, such as:
    - The State of Texas and the owners and operators of BART-subject units submitted comments indicating interest in development of a BART alternative to address concerns specific to Texas.
    - The proposed BART FIP controls would require more control than what is necessary to satisfy BART requirements.
    - The EPA's assumed remaining useful life of 30 years for the affected coal-fired EGUs is significantly overstated, which significantly impacts the cost effectiveness assumptions for available emission controls.
    - The EPA failed to consider grid reliability or alternate compliance approaches such as source or system caps.
- Texas and EPA have begun discussions to develop a BART alternative that would address concerns that are specific to Texas.
- EPA rules may prohibit comparison of the trading program to a presumptive BART if the EPA's proposed source-specific BART is finalized.